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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/968,034	11/12/1997	SOREN JONSSON	C-35890	8018

7590 12/03/2001
CURTIS B. HAMRE
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER

SOOHOO, TONY GLEN

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 12/03/2001

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/968,034

Applicant(s)

JONSSON, SOREN

Examiner

Tony G Soohoo

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 1-7, 12, 13, 17-26, 31, 34, 35, 37, 39, 40, 43 and 44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-11, 14-16, 27-30, 32, 33, 36, 38, 41, 42 and 45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Applicant's election of the species of "d" in Paper No. 15 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 1-7, 12-13, 17-26, 31, 34-35, 37, 39-40, 43-44 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected SPECIES, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 15.

Priority

3. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 08/734,817 as follows:

An application in which the benefits of an earlier application are desired must be copending with the prior application or with an application similarly entitled to the benefit of the filing date of the prior application.

Under the decision by the Office in paper no. 6 mailed March 30, 2000, titled DECISION GRANTING PETITION, has ruled that copendency has not been established with 08/734,817, see especially in page 2, paragraph 6. Also see the paper for appropriate steps to revive the 08/734,817 application.

Accordingly, a request for priority is denied and an effective filing date of the instant application is deemed as being 11/12/1997.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States.

5. Claims 29-30 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Hajianpour 6042262.

6. Claims 8-11, 14-16, 29-30, 32-33, 36, 38, 41-42, 45 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Chan 5779356

7. Claims 8-11, 14-16, 27-30, 32-33, 36, 38, 41-42, 45 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by WIPO document WO 94/26403 (international filing date 06 MAY 1994).

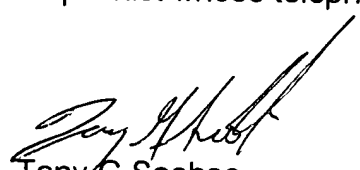
8. Claims 8-11, 14-16, 27-30, 32-33, 36, 38, 41-42, 45 are rejected under 35 U.S.C. 102(d) as being clearly anticipated by WIPO document WO 94/26403 (international filing date 06 MAY 1994).

9. Claims 27-29 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by JP 6-100056.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following disclose means which break an ampoule: WO 97/18031. The following disclose hollow shaft stirrers with a disc agitator: Nilson et al 5252301. The following discloses devices with features of an ampoule additive means or mixing devices reciprocating shaft agitators: Frischmann et al 4676406, Farrington 1211426, Murray 5797678, Peterson 3036819, Sjoval et al 6312149, Heller et al 6017349, Hajianpour 6176607, Hutter 5934803, Hoag et al 6120174, WIPO documents -- WO 94/05415, and WO 93/22041.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony G Soohoo whose telephone number is (703) 308-2882. The examiner can normally be reached on 7:00 AM - 5:00 PM, Tues. - Fri.. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-3599 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


Tony G Soohoo
Primary Examiner
Art Unit 1723

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